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**Title**

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**Permalink**

<https://escholarship.org/uc/item/5g52q7g9>

**Journal**

American Indian Culture and Research Journal , 38(2)

**ISSN**

0161-6463

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**Publication Date**

2014-03-01

**DOI**

10.17953

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## *The State of Nevada v. Eugene Austin:* A Tragic Story of Homicide and Incarceration in the American Southwest

*Thomas A. Britten*

On a cool Sunday evening in May 1941, a seventeen-year-old Paiute Indian named Eugene Austin shot and killed a thirty-five-year-old Anglo woman as she sat reading some letters in her office. The murder occurred in the town of Lovelock, Nevada, a small farming and ranching community of 1,300 people located in Pershing County, about ninety miles northeast of Reno. Austin had neither a criminal record nor a documented history of violent behavior, complicating the task of local law enforcement officials seeking to discover the young man's motive for committing the crime. There had been no altercation between Austin and the woman; in fact, he did not even know her. He was not drunk or under the influence of drugs, nor was it a "robbery gone bad" scenario in which he committed the murder in the pursuit of another crime. During the interrogation that followed shortly after his arrest, Austin himself had difficulty articulating a plausible reason why he had shot the woman. Despite the ongoing ambiguity surrounding his motive, Austin pled guilty to first-degree murder and in July 1941 received a life sentence in Nevada State Prison.

The Eugene Austin tragedy is troubling in several respects. It is not a "feel good" story about a man wrongfully accused who fights for justice and at last

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gains his freedom, but instead a story of inexplicable violence and victimization lacking heroes, rehabilitation, or redemption. While Austin's horrific experience behind bars was likely not indicative of other Native American convicts of the period, his story represents the ongoing social and cultural divides separating Indians from non-Indians and the quiet—but potentially volatile—desperation of individuals lacking hope or opportunity. An examination of Austin's crime and subsequent conviction and punishment, therefore, provide insights into some of the problems facing Native Americans in the Southwest during the 1940s, about the criminal justice system in Nevada during that time, and about individual choices and the consequences that accompany them. It is a story, unfortunately, without a happy ending.

Criminologists, anthropologists, and the occasional historians who have ventured into the field of American Indian crime and delinquency have spent considerable time examining the possible origins or triggers of violent behavior. By identifying the various causes and factors involved in deviancy, researchers seek to devise techniques to identify potential problem areas and to recommend policies to mollify, if not counteract them. Some scholars, for example, have proposed a "subculture of violence theory" when attempting to explain the disproportionately high crime rate among certain groups in society. They identify Southern whites, for example, as being more inclined than groups in other regions of the country to endorse or tolerate the use of physical force in settling disagreements. The more dominant a violent subcultural orientation is among groups or regions of the country, the greater the likelihood of lethal violence.<sup>1</sup>

From the perspective of many scholars of Native American history (and from an even greater number of Native Americans), the five-century-long battle waged by indigenous nations against European style colonialism (or internal colonialism) remains the principal source of Indian anger, disillusionment, and violence.<sup>2</sup> "American Indian communities today struggle to cope with devastating social ills that were practically non-existent before the European invasion," writes Lisa M. Poupart (Ojibwe). "The domination and oppression of American Indian Nations brought about economic deprivation, loss of tribal sovereignty, increased dependency, internalized oppression, unresolved historical grief, and the normalization of violence, all of which contribute to crime in Indian communities today."<sup>3</sup> If a subculture of violence indeed exists in Indian country, adherents of this theory maintain, it came on the heels of conquistadors, Pilgrims, clergymen, and pioneer settlers.

Ethnographers likewise point to cultural differences separating Native Americans from other groups in society as a possible antecedent to violent behavior. The "adjustment/acclulturation" explanation, for example, describes the difficulty that Native Americans of virtually all tribes have in relating

to the profound cultural differences separating the dominant United States culture from hallowed tribal traditions. Individuals unable (or unwilling) to make adjustments to accommodate new ideas, traditions, and behaviors, researchers maintain, are often more likely to commit crimes. Such unlawful behavior, however, is not always or necessarily intentional. Arthur Riffenburgh maintains that many Indians are simply unaware of the “expectations and demands of the Anglo-American criminal justice system, and therefore more likely to violate laws.”<sup>4</sup> Other writers posit that criminal behavior among Native Americans is the result of social disorganization wrought by the breakdown of traditional Indian social and cultural institutions (such as the family or tribal governments). Because of this breakdown, Native peoples suffer anomie or confusion about behavioral norms, which may in turn lead to lawbreaking. Conversely, some scholars argue that deviant behavior is the result of the persistence of tribal culture. Tribes that place a low value on property possession and material goods, for example, will likely experience low property crime; those characterized by a low degree of social integration, on the other hand, will manifest higher rates of drinking violations, homicides, and other violent crimes.<sup>5</sup>

Another set of researchers maintains that certain structural conditions (as opposed to cultural disorders) are better predictors of violent crime. In 1939, psychologists John Dollard, Leonard Doob, and others argued that “the occurrence of aggressive behavior always presupposes the existence of frustration and, contrariwise, that the existence of frustration always leads to some form of aggression.” People entrapped in poverty and dependence, for example, may develop a host of psychological maladies ranging from a deep sense of powerlessness and brutalization to anger, anxiety, and alienation—in other words, frustration. These responses to economic deprivation can in turn provoke physical aggression. Of particular relevance to the Eugene Austin story is Dollard’s and Doob’s caveat that “Aggression is not always manifested in overt movements but may exist as the content of a phantasy or dream or even a well thought out plan of revenge. It may be directed at the object which is perceived as causing the frustration or it may be displaced to some altogether innocent source or even toward self.”<sup>6</sup>

Virtually all studies of Native Americans and the modern criminal justice system have found that Indian arrests, convictions, and incarceration rates are higher than most other groups in the United States. This unfortunate trend led some scholars to embrace the rather simplistic and provocative conclusion that Native Americans are simply a more criminal group. While acknowledging the reality of disproportionately high Indian crimes rates, other studies speculate that the phenomenon is likely the result of racial, behavioral, and cultural prejudices against Indians and discrimination at all levels of the

criminal justice system. Advocates of the “Native Americans as victims” theme argue that Indians are “overpoliced” and more carefully watched than other groups, and/or they fail to make effective use of legal advantages and services to escape conviction or at least receive lighter sentences. This latter failure may be a result of the Indians’ lack of awareness that assistance is available (and lack of confidence that help will be forthcoming) or because legal aid agencies are ignorant about the unique problems facing Native American communities.<sup>7</sup>

Some, but not all, of these explanations for Indian crime, violence, and high incarceration rates appear to have at least some applicability to the case of Eugene Austin. The following biography, drawn primarily from his two confessions (the first in late May 1941 and the second in mid June 1941), paints a rather dismal picture of a lonely and troubled young man raised in a dysfunctional family amidst poverty, rural isolation, and sparse opportunity. Increasingly desperate to avoid a future marked by hard manual labor, low pay, and a large family dependent upon him for its subsistence, Eugene Austin was anxious to escape his “confinement” in the small Paiute Indian community near Lovelock, Nevada.

Born on June 13, 1923 to Tom and Sadie Austin, Eugene was the fourth of six children. He attended elementary school at the Stewart Indian School, an off-reservation boarding school established in 1890 to train and educate Indian children from the Washoe, Paiute, and Shoshone tribes, with the ultimate goal of assimilating them into the majority society. The school’s curriculum was largely vocationally oriented, offering boys training in ranching and farming, mechanics, woodworking, painting, and carpentry—skills necessary to equip them to find employment as blue-collar workers or perhaps small-business owners. Located just outside Carson City, the school was approximately 120 miles from Lovelock, a considerable distance for a child to be away from his home and family. Similar to the experiences of countless Indian children separated from their families for long stretches of time, Eugene likely had a difficult time adjusting to life at Stewart and the school’s concerted attack on his cultural heritage. He was a C student, received occasional reprimands for failing to report for work details, and completed sixth grade before dropping out and returning home in 1938. Times were tough. With the country still in the grips of the Great Depression, large families such as the Austins required the labors of each member simply to put food on the table. This was particularly true of Lovelock’s two hundred or so Paiute Indian residents, most of whom lived south of town in “Lovelock Colony,” the meager twenty-acre reservation the United States government had acquired for the Paiutes back in 1907. As members of the Lovelock Paiute community, the Austin family likely supplemented their diet by hunting and, each fall, by gathering pine nuts (or piñon nuts) in the surrounding hills. Tom Austin was a ranch

hand and spent months at a time working on a spread in Sweetwater Creek nearly 150 miles away. Sadie Austin, consequently, depended on Eugene and his older brother Eddie to pitch in and help. The family's financial pressures increased when three additional children joined the household—the offspring perhaps of Eugene's sister Florence or brother Herman. Eugene did his part by finding work cutting hay, tending to livestock, and digging ditches for local farmers and ranchers, but the jobs were sporadic and he spent a good deal of time loafing around the house or hunting. Eddie Austin, meanwhile, did even less. Two years older than Eugene, Eddie's drinking, carousing, and mischief-making led to occasional brushes with the law, and at some point in the late 1930s a botched burglary led to a two-year stint in Nevada's reformatory for boys in Elko.<sup>8</sup>

The prospect of continuing this hardscrabble existence weighed heavily on Eugene Austin's mind, as did his brother Eddie's relatively selfish and carefree existence hanging out with friends and ignoring his familial obligations. Making matters worse was his brother's unwillingness to include him in his circle of associates. "Eddie Austin didn't want me around," Eugene later commented. "He wanted everything to himself." For reasons that even seventeen-year-old Eugene may not have fully understood, he awoke in a particularly sour mood on the morning of May 25, 1941. When his brother offered to take him hunting, Eugene grudgingly consented and the two Austin boys rode off in Eddie's car shooting at rabbits and pheasants through the vehicle's open windows. Returning home around noon, Eddie disappeared to visit friends, leaving Eugene behind as usual. Later that evening, Eugene Austin's assorted frustrations apparently became too much for him to contain any longer. Possessing a volatile temper that could be triggered at the slightest provocation (perhaps symptoms of bipolar disorder), Austin stalked into the kitchen and waited for dinner. When his one-year-old niece Leona started crying, Eugene erupted, hitting the baby with his fist and knocking her to the floor. Sadie Austin moved quickly to intervene, but Eugene grabbed a knife and began chasing her around the house. While the terrified woman gathered the remaining children and sought refuge in another part of the house, Austin grabbed his rifle and stormed outside into the darkness.

The old single-shot Model 15 Springfield .22 he carried was barely functional. Black tape held the weapon's shattered stock together and it had a frustrating tendency to shoot high, requiring Eugene to aim well below his target in order to hit anything. As Austin made his way through Lovelock Colony, he shot at a passing dog, but missed. Spying his ne'er-do-well brother drinking in a cabin, he put a round or two through the screen door separating them, the bullets passing harmlessly just over the young man's head. Austin then turned north and headed into the village of Lovelock. While passing

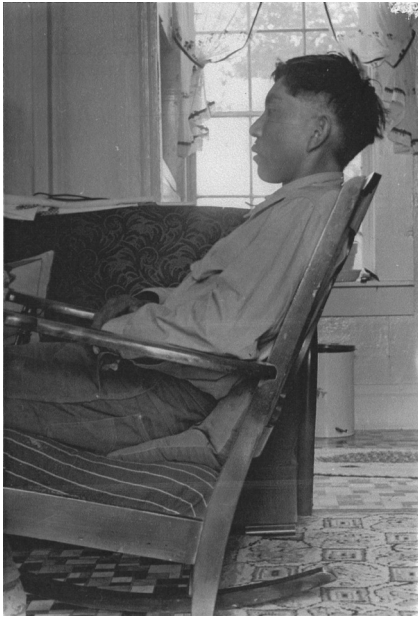
through the parking lot of Brookwood Auto Court, a motel and trailer park located on the city's south side, he spied thirty-five-year-old Velna Stoker sitting in the establishment's office just twenty-five yards away. Raising his rifle once again, Austin took aim and squeezed the trigger. Tragically, Austin's aim this time was true. The round passed through the open window and struck the unsuspecting woman in the head. Mrs. Velna Stoker, the wife of postal employee Vernon Stoker and mother of seven-year-old Eldon Stoker, died later that evening.<sup>9</sup>

Certain that he had hit the woman but unaware of her condition, Eugene Austin fled the scene in panic, running pell-mell in the dark from one hiding place to another. After stashing the rifle under some brush, he eventually made his way to property owned by Bill Carpenter, a rancher for whom he had worked in the past. By this time, it was nearly midnight and Austin finally found refuge in a tent used by ranch hands and went to sleep. Perhaps due to reports of Austin's earlier shooting spree at his brother and the dog, Pershing County Sheriff J. H. Clawson and other law enforcement officials were already on the lookout for him. On the morning of May 26, they tracked Austin to Carpenter's ranch and took him into custody on suspicion of murder.<sup>10</sup>

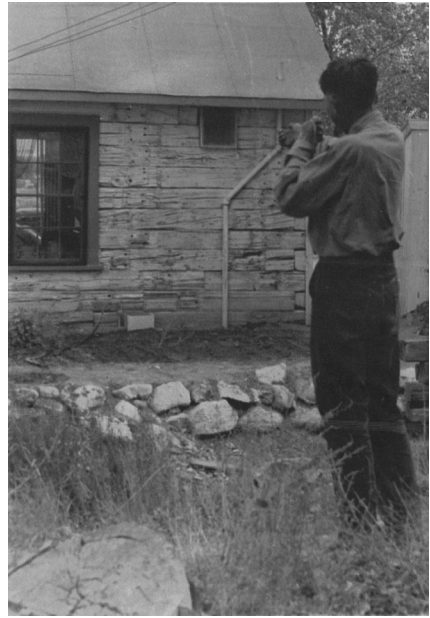
Later that afternoon, after talking with Pershing County District Attorney Sanford A. Bunce and Sheriff Clawson about his activities of the previous evening, Eugene Austin agreed to sign a formal confession. Fearing possible mob violence in the immediate aftermath of the shooting, law enforcement officials housed him in the Winnemucca County jail, approximately seventy miles northeast of Lovelock. He had no legal representation present, and professed to understand that anything he said would be used against him in future criminal proceedings developing from the shooting of Velna Stoker. By this time, he had already admitted to the murder (he allegedly confessed to Sheriff Clawson while still at Carpenter's ranch) and even participated in a reenactment of the shooting, showing law enforcement officials where he had stood and how he had taken aim, and going inside the Brookwood Auto Court office to demonstrate how Mrs. Stoker was sitting at the time of the murder. The photographs taken of these reenactments show a rather unimposing figure.

Thin, with short-cropped black hair and wearing an oversized long-sleeve shirt and blue jeans, Austin could have easily passed as a fourteen- or fifteen-year-old. Present during the proceedings was Austin's mother Sadie, likely still traumatized by Eugene's violent behavior of the preceding day and worried about what the future held for her troubled son.<sup>11</sup>

Although there was little question about Eugene Austin's guilt given his confession and corroborating physical evidence—the rifle and shell casings at the crime scene—District Attorney Sanford Bunce had a difficult time



**FIGURE 1.** Seventeen-year-old Eugene Austin reclines in Velna Stoker's rocking chair during a reenactment of the crime conducted less than twenty-four hours after the shooting. Courtesy of Pershing County Courthouse, Lovelock, Nevada.



**FIGURE 2.** Eugene Austin stands outside the window of Brookwood Auto Court in the spot where he shot Velna Stoker. His consent to participate in the reenactment without the assistance of legal counsel proved very damaging to his case. Courtesy of Pershing County Courthouse, Lovelock, Nevada.



**FIGURE 3.** Brookwood Auto Court, Lovelock, Nevada. Courtesy of Pershing County Courthouse, Lovelock, Nevada.



discerning the young man's motive for the killing. Austin's emotionless and passive demeanor throughout the interrogation concerned the district attorney, who began suspecting that the Paiute youth suffered from mental problems. Compounding difficulties further, Austin offered little in the way of explanation or context, instead providing one-word answers or simply murmuring, "I don't know" to Bunce's many questions. In a crucial exchange in which Bunce tried to establish Eugene's anger with Eddie Austin as the source of his subsequent violence, Austin contradicted himself repeatedly.

- Bunce: Has your brother been doing quite a bit of drinking lately?  
Austin: Every Saturday—sometimes.  
Bunce: And before you left home and during the last few weeks have you had any trouble with your brother?  
Austin: No.  
Bunce: With the family?  
Austin: No.  
Bunce: Have you argued with him about the fact that he should help contribute to your mother?  
Austin: No.  
Bunce: What have you thought about his actions and ways of doing?  
Austin: I thought of shooting my brother but didn't.  
Bunce: What else did you think about as you walked along before the shooting?  
Austin: Nope, I didn't think anything.  
Bunce: Except your anger for your brother?  
Austin: Yes.<sup>12</sup>

Bunce then proceeded to question Austin about his frame of mind immediately before and after shooting Velna Stoker in hopes of determining why Austin had singled her out and when he decided to shoot her—crucial information to establish if the murder was premeditated. The young man's answers partially fulfilled the district attorney's goals, but also cast doubt on his intellectual capacity and ability to reason or premeditate much of anything.

- Bunce: Now as you walked along [behind Brookwood Motor Court] what did you see and think or do up to the time of the shooting?  
Austin: I didn't think much when I saw that woman sitting in the cabin. I just aimed and pulled the trigger.  
Bunce: And what did you think as you raised the gun to take the shot at her?  
Austin: I thought of just wounding her so I would have a good excuse to stay away. I thought of getting out of there fast as I could and getting back to the Carpenters and getting back here to catch a

freight [train]. If I got caught that would be alright. I didn't think much while I was at the shooting.

Bunce: At the time of the shooting when you thought about the fact that you might be caught where did you figure you would be placed or put?

Austin: Maybe in Nevada State Prison.

Bunce: You desired to be put in prison should you be caught after the shooting?

Austin: Yes.

Bunce: Why would you want to be put in prison rather than remain in Lovelock in the Indian Village with your family?

Austin: Because we had too much trouble—too much family trouble.

Bunce: Then you figured rather than go through all that trouble it would be best to take a shot at this lady and get out and if you couldn't get out you could go to prison?

Austin: Yes.

Bunce: Why would it be necessary to shoot the lady to get away?

Austin: I don't know.<sup>13</sup>

Austin's second confession on June 19 offered little in the way of additional factual or evidentiary information, but probably reinforced Bunce's growing conviction that Eugene Austin might suffer from some antisocial personality disorder or what psychiatrists at the time were only beginning to call sociopathy. Today recognized as a cluster of personality traits that among others includes remorselessness, callousness, proneness to low anxiety, and failure to form close emotional bonds, sociopathy (or psychopathy) was largely regarded by mental health professionals as incurable, requiring indefinite institutionalization rather than temporary punishment.<sup>14</sup>

When questioning Eugene Austin about his thoughts and feelings on the night of May 25, 1941, Sanford Bunce asked several specific questions about Velna Stoker, who sat reading some letters in the office of Brookwood Auto Court. Did Austin know her? Did he consider checking on her condition after the shooting? Did he feel any remorse?

Bunce: After you watched her read the letters and saw her sitting there what did you do?

Austin: I raised the gun to my shoulder, aimed, and pulled the trigger and the gun exploded. The bullet went through the window and hit her in the head and she fell forward.

Bunce: Did you know you hit her in the head?

Austin: Yes.

Bunce: Was that the way you had aimed?

Austin: Yes.

Bunce: How well do you know Mrs. Stoker?  
 Austin: I don't know her.  
 Bunce: How many times had you seen her?  
 Austin: 3 or 4 times.  
 Bunce: After she fell forward you were perfectly aware of the fact that you shot her in the head?  
 Austin: Yes.  
 Bunce: How long did you stay there at the Brookwood after the shooting?  
 Austin: One second.  
 Bunce: What did you think about at the time you were shooting Mrs. Stoker?  
 Austin: Nothing.  
 Bunce: What did you think about immediately after you shot her and noticed her fall forward?  
 Austin: Running away.

As is frequently the case during the interrogation process, the questioner does not always follow one line of inquiry to its culmination but instead charts a circuitous path, returning at various intervals to certain key points. After discussing the condition and ownership history of the murder weapon, Sanford Bunce returned once again to Eugene Austin's motive.

Bunce: What did you propose to do with the gun when you took it with you?  
 Austin: I figured on going after a man with a good car and going away from town.  
 Bunce: What made you change your plans and take a shot at the lady instead?  
 Austin: I don't know.  
 Bunce: And what did you think from the time of the shooting to the time you got to the Carpenter ranch?  
 Austin: I was thinking of going back home and go to sleep; instead I went to Carpenter's and go to sleep.  
 Bunce: What else?  
 Austin: I didn't think anything after that.

On June 16, 1941, just three days after Eugene Austin's eighteenth birthday, Sheriff J. H. Clawson filed a formal criminal complaint charging him with first-degree murder in the shooting death of Velna Stoker. At his preliminary arraignment two days later, Austin waived his right to an attorney and likewise to a preliminary hearing. Representing him in the matter were Charles W. Buell and James Vidovitch, deputy special officers of the US Indian Service who were not lawyers, but law enforcement officials whose responsibilities did not include offering legal advice.<sup>15</sup> Afterwards, Justice of the Peace Clarence

L. Young remanded custody of Austin to Sheriff Clawson without bail and ordered that he be delivered to the Sixth Judicial Court for further proceedings. At his formal arraignment a week later, Austin pled guilty to first-degree murder and returned to his jail cell to await his trial and sentencing. His short stay in the Lovelock jail apparently changed his attitude about the reality of life behind bars (if in fact he had committed the murder in order to escape Lovelock by going to prison). On the morning of July 3, Austin attempted to escape by attacking a jailer pouring a cup of coffee for another inmate. Brandishing a makeshift club fashioned from several table knives bound together with a belt and wire from his bed, Eugene struck the jailer over the head and then called upon his fellow inmates to join him. None took him up on the offer, however, and another jailer quickly subdued him.<sup>16</sup>

What role—if any—this episode played in his two-day trial is difficult to ascertain but it may very well have influenced the severity of Austin's sentence. On July 9, District Court Judge Leslie O. Hawkins found him guilty of killing Velna Stoker "willfully, unlawfully, feloniously and with malice aforethought." During the proceedings, District Attorney Sanford Bunce described Eugene Austin as "cunning and impelled by a desire to kill which cannot be discerned by any act on his part due to the lack of emotion, temperament, and the natural stoic characteristic of his race. It appears from a thorough study of his actions, character, background and mental framework, that there will be no possibility of his rehabilitation to the extent where he would ever become an average citizen." Judge Hawkins apparently agreed and on July 11, sentenced Austin to spend the duration of his life in the Nevada State Prison.<sup>17</sup>

Eugene Austin's decision to proceed to trial without the benefit of counsel was a very serious mistake, proof perhaps that he wished to go to prison as a means of escaping his dysfunctional family relationships and an uncertain future in Lovelock. Waiving the right of legal assistance, however, was not unusual for an alarming number of Native Americans seeking to navigate their way through the criminal justice system. Writing thirty-five years after the Austin verdict, sociologist Bruce Chadwick noted that nearly 20 percent of the urban Indians residing in Seattle who had been in trouble with the law were only vaguely familiar with attorneys or what they could do, and thus had not attempted to seek legal assistance.<sup>18</sup> If true, then one must consider whether Eugene Austin, an impoverished Paiute with a sixth-grade education living in a small rural community in 1941 had a similar "vagueness" about whether or not he needed an attorney, or what an attorney could do for him.

One crucial service defense counsel might have provided Eugene Austin was to challenge the charge of first-degree murder. District Attorney Sanford Bunce had an extremely difficult time piecing together a motive—much less a premeditated one—for the murder of Mrs. Stoker. "From your own knowledge

and what you have read," he asked Austin during his interrogation, "what do you know happens to people that [sic] *kill others without reason?*"<sup>19</sup> The theory that Austin had hatched the murder plan as a means of getting out of Lovelock very well may have taken place, but not until *after* the shooting, perhaps as the young man considered the repercussions of what he had just done. As Austin repeatedly stated during his interrogation, he was not thinking much about anything (other than malicious thoughts about his brother) in the moments before shooting Velna Stoker. If going to prison was his premeditated objective, why not just turn himself in to authorities? Why bother to hide the rifle? Why the flight to Carpenter's ranch? Austin was clearly angry with his brother on the night of the murder, even shooting at him while the latter was visiting with friends. Why Bunce did not also charge Austin with the attempted murder of Eddie Austin is unclear. A reasonable interpretation of the events that ensued after he left the Lovelock Colony and headed toward the Brookwood Auto Court was that Velna Stoker was the unfortunate victim of an admittedly senseless but impulsive and random act of violence that Austin had neither planned nor rehearsed. She was simply in the wrong place at the wrong time. Had he stumbled across anyone else that night, he likely would have shot him or her instead given his turbulent mental state at the time. A defense attorney would likely have attempted to negotiate a plea bargain, voluntary manslaughter, which would have earned Austin a ten-year sentence and, if Sanford Bunce was correct, satisfied Austin's desire for a stint in Nevada State Prison.<sup>20</sup>

Defense attorneys would also have worked to diffuse the negative stereotypes associated with Native American offenders (for example, Bunce's remark about the "stoic characteristic" of the "Indian race"), which often influenced the court's perceptions of the threat that Indians posed to the community. They would have introduced the many extenuating circumstances surrounding Austin's troubled life—his boarding school experiences, his father's long absences from home, the poverty and lack of opportunity facing the Lovelock Indian community, and possibly, his low IQ. There was also the distinct possibility that Eugene Austin was mentally ill, a condition that Sanford Bunce as much as admitted in his description of the defendant during the trial. That said, making a successful insanity plea would have been difficult. Under the so-called M'Naughten Rule, "every man is to be presumed to be sane" and defense attorneys had the burden of proving that when Austin committed the murder he was laboring under "such a defect of reason" or from "disease of mind" that he did not know what he was doing and/or that it was wrong.<sup>21</sup> Barring an insanity defense, attorneys would have at least rehearsed appropriate courtroom demeanor. Edwin Hall and Albert Simkus write that an offender's "attitude" before the bench is a "crucial unmeasurable factor" behind

district court judges' sentencing decisions including apparent recalcitrance, "desire to 'do better,' [and] respect for the court."<sup>22</sup> Assuming that Austin was not a sociopath, a genuine expression of remorse or an acknowledgment of the pain and loss he had caused Velna Stoker's husband and young son might have influenced his sentence in a positive way and ameliorated the horrific future that awaited him.

Established in 1862, the maximum security Nevada State Prison (NSP) was home to some of the state's worst offenders. Situated on a twenty-acre tract on the east side of Carson City, the prison garnered worldwide attention in 1921 when it became the site of the nation's first gas chamber. A decade later, the NSP opened a prisoner-operated casino where inmates who behaved themselves could play cards and wager bets using the prison's own currency. Like many prisons at the time, the Nevada State Prison managed its population through a mixture of incentives and penalties. Prisoners lived a highly structured life, spending a good portion of their day working in the nearby sand quarry, in the kitchen and laundry facility, or in one of the various prison workshops constructing lamps, ashtrays, license plates, and mattresses. New arrivals entered the prison by passing through a secure entrance (or sally port) topped with a Gatling gun capable of firing seven hundred rounds a minute, a warning to the NSP's "guests" that the warden "did not want any of them to leave him."<sup>23</sup> The cramped prison cells, some designed to accommodate four inmates, precluded any chance for personal space or privacy.

In July 1941, eighteen-year-old Eugene Austin became prisoner number 4354 in Nevada State Prison. His first years must have been especially traumatic and his adjustment to confinement difficult. Standing 5 feet 8 inches tall and weighing 150 pounds, Austin likely faced major challenges defending himself, and as one of the few Native American inmates at the NSP, he almost certainly became the target of unflattering racial slurs and taunts from fellow convicts.<sup>24</sup> If he ever possessed romanticized notions about what prison life would be like, Austin's first few years behind bars undoubtedly shattered them. According to warden Richard Sheehy, Austin was involved in numerous fights, including scuffles with knives. Prisoners who knew him, meanwhile, described Austin as "a very rough character."<sup>25</sup>

On the evening of May 13, 1948, Eugene Austin—now twenty-five years old—managed to escape. Using some hacksaw blades he had smuggled back to his cell, he sawed through the bars, leaving a makeshift dummy in his bed to fool guards making routine checks. He then made his way into the prison yard and scaled a rock wall, somehow escaping detection by guards manning the prison watchtowers. For the next several hours, Austin ran in a north-easterly direction across the rugged, rocky terrain, perhaps seeking to reach Lovelock, an ironic choice given his earlier history there. Pursued by trackers

with orders to shoot him should he show the least sign of resistance, Austin made it approximately ten miles from the NSP before a posse of prison guards and local police officers discovered his trail near the Carson River at a location known as Mexican Dam. On the afternoon of May 14, his pursuers finally caught up to him, lying shoeless and exhausted in an irrigation ditch, where he surrendered without a fight. Upon arrival back at the prison around 6:00 pm, guards placed the fugitive in solitary confinement.<sup>26</sup>

Over the course of the next five years, Eugene Austin's behavior grew increasingly violent and erratic, prompting new suspicions that he suffered from serious mental illness. Confrontations with guards and other convicts escalated, and in 1951, warden A. E. Bernard reported that he refused to go to the exercise yard, refused to associate with other inmates, and would not take meals in the mess hall—behaviors possibly motivated by fear and a desire for self-preservation rather than mental disability or acts of rebelliousness. When the warden ordered that Austin spend part of the day outside his cell, he would take a position near an outside wall and stand on one leg with his arms folded for hours at a time, not talking to anyone. When inmates started teasing him, Bernard recalled, Austin “grabbed two of them and threw them like they were marbles.” Austin also protested his incarceration in ways that undoubtedly worried and frustrated his keepers. He would run headfirst into the walls of his cell; break lightbulbs and eat the glass; and take clothing and bedding, shred them up, and then stuff them down the toilet, clogging the plumbing. To discourage this sort of activity as well as to prevent Austin from hurting himself, prison officials confined him naked with no furniture in his cell save his metal bunk bed. According to Bernard, Austin responded by unscrewing the nuts and bolts holding the beds together and then bending the iron bunks “like rubber bands” with his bare hands.<sup>27</sup>

In the fall of 1953, Warden Bernard discussed Eugene Austin's disruptive and potentially life-threatening behavior with the prison's part-time physician Richard Petty, who recommended a prefrontal lobotomy—a procedure, he maintained, that would make Austin “more docile.” Although a general practitioner, Petty was a member of the Nevada State Hospital Board and as such presumably knew something about psychosurgery and its serious risks. Lobotomies were relatively popular in the 1930s to 1950s. According to one estimate, more than 10,000 people were lobotomized in the United States during this period to “treat” a wide range of mental disorders, but they resulted in improvement only half the time, and turned many patients into “human vegetables.” The procedure called for inserting a leucotome, an instrument resembling an ice pick, into the patient's upper eyelid and then driving it with a hammer or mallet through the orbital bone into the brain. The surgeon then moved the leucotome from side to side to sever the connections of the

prefrontal cortex, the region of the brain thought to control cognitive behavior, personality, and decision-making.<sup>28</sup>

After a panel of psychiatrists authorized the procedure and Sadie Austin gave her consent, prison officials transported thirty-year-old Eugene Austin to the Washoe Medical Center in Reno and on October 1, 1953, surgeons performed a bilateral lobotomy. The procedure apparently had little effect on his personality or behavior. "It didn't do one damn thing for him," A. E. Bernard recalled; "it didn't make him more docile." The lobotomy's failure to transform Austin into a model prisoner quickly became apparent when he resumed running headfirst into the walls of his cell. In response, the warden placed him in a room with padding, which Eugene promptly ripped apart and stuffed down the toilet. He also continued breaking lightbulbs and eating the glass, leading prison officials to remove even the light fixtures from his cell. A neurological examination conducted at the time indicated that Austin was going blind and that light hurt his eyes, a condition that prison officials speculated was caused by the many blows to the face he had received during fistfights. Locked up in a maximum-security cell with no clothes and no light, Austin refused to eat prison food, his only nourishment coming from sympathetic guards who slipped him candy bars. In August 1964, prison officials committed him to the Nevada State Hospital where he remained for nearly three years until orderlies discovered him in possession of two hand-fashioned knives that he had constructed out of spoons. By the first week of July 1967, therefore, he was back "home" in the NSP. Throughout his incarceration, Austin spent a considerable amount of time in solitary confinement, reportedly from seven to ten years. "The hole" or "the icebox," as inmates knew it, amounted to little more than a cave with prison bars at the entryway. After a visit to the NSP in the late 1960s, Bob Robertson, executive administrator for Nevada governor Paul Laxalt (1967–1971) declared that Austin was confined under "the most brutal conditions I have ever seen. He was literally caged in an old dungeon carved out of the rock in which the maximum security portion of the Nevada State Prison is built."<sup>29</sup>

While eligible to apply for parole as early as 1948, seven years into his sentence, Austin did not do so until 1965, and he continued to seek his release for the next nine years. Parole boards rejected his requests (five in all) for a variety of reasons. First, Vernon Stoker, the widower of murder victim Velna Stoker, feared for his personal safety should Austin receive parole and return to Lovelock. Austin also suffered from a number of physical disabilities that severely restricted his opportunities for employment. In addition to his blindness, Austin could no longer walk without a cane and his speech was garbled and virtually unintelligible. During his long incarceration in solitary confinement, he had developed a neurological tic that made his head jerk to the side.



He had received little in the way of education or vocational rehabilitation during his three decades in Nevada State Prison, and possessed no job skills. Returning to Lovelock was also impossible because his elderly mother Sadie was in poor health, and she lived in a small home with no plumbing situated next to a big ditch, a potential hazard for her sight-impaired son. Eugene's siblings, meanwhile, had not visited him since the early 1940s and were not forthcoming with offers to provide the level of care he needed. Austin's social skills, which were never particularly strong to begin with, deteriorated during his long captivity and extended periods in solitary confinement. His volatile temper, on the other hand, showed little signs of mellowing. During an interview with social workers Tom Burns and Kris Winters in June 1971, they discussed the need for proper hygiene should he one day gain his release. He took umbrage at this suggestion, however, and insisted that he would take a shower once a year and it was nobody's business how often he showered and shaved. "All of a sudden he gave a lurch," recalled rehabilitation counselor Kris Winters, "and it was such a quick movement that for a moment I was quite startled." Austin "doubled up his fist quickly," Burns added, "and then suddenly had relaxed. I thought he meant to pound the mattress with his fists."<sup>30</sup>

Over the course of the next two years, social workers accelerated Austin's rehabilitation regimen (for example, learning Braille, speech therapy, and walking with a cane) while seeking "a structured setting to provide him regular meals, bed, and a method of stimulating him to any level of productivity." In the fall of 1972, they located a nursing home in Reno, McBride's Golden Age Rest Home, that was willing to take him in and was ideally situated near a vocational rehabilitation facility. A snag developed, however, when a few members of the parole board insisted that Austin be placed in an Indian community where the Bureau of Indian Affairs, rather than the State of Nevada, would be both financially and administratively responsible for his housing, rehabilitation, and employment. Consequently, during parole board hearings held from November 6–8, 1972, his petition for release once again was denied.<sup>31</sup>

Two weeks after the parole board's decision, Eugene B. Wilson and Perry Sundust of the Indian Health Service (IHS) wrote a letter thanking rehabilitation counselor Kris Winters for his efforts on behalf of Eugene Austin. That said, Wilson and Sundust argued that "continued incarceration for a man such as Eugene Austin is unjustified and inhumane" and that "a review of the court proceedings and the subsequent incarceration might find the price Mr. Austin is paying too severe and unjust." If the parole board did not make an immediate evaluation and reconsideration of the case, they warned, national Indian organizations such as the National Congress of American Indians, the National Tribal Chairmen's Association, Indian interest groups, and the news media "will be called upon to see that justice is exercised."<sup>32</sup>

The reaction of some prison officials to the IHS letter was predictable. In July 1973, Eugene Coughlin, the supervising correctional classification counselor at the prison who worked closely with the parole board, encountered Eugene Wilson and Dick Anderson of the IHS when they came to check on Austin's progress. In the heated exchange that ensued, Coughlin "declared that the Parole Board would not be pressured into releasing any inmate" and that "pressure would have the opposite effect and would harm the inmate's chances of being released."<sup>33</sup> Wilson and Sundust responded later that month by penning a four-page letter recapping Austin's incarceration, solitary confinement, lobotomy, blindness, and recent efforts at rehabilitation. Despite his limitations, they argued, Austin was capable of adjusting to life outside prison and entitled "to pursue life, liberty, and happiness as any other normal American citizen." The ongoing parole saga, they concluded, exhibited "prejudicial overtones to the point of racism."<sup>34</sup>

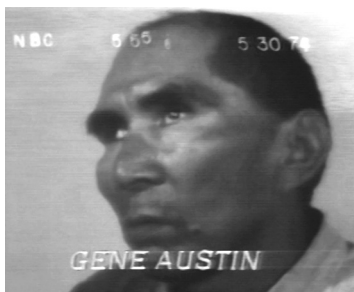
Eugene Austin gained a powerful new ally in August 1973 when the executive director of the National Council on Indian Opportunity (NCIO), Bob Robertson, became involved in the case. As the former executive administrator for the State of Nevada under Governor Paul Laxalt, Robertson had witnessed the horrific conditions Austin encountered while serving time in the NSP's solitary confinement cell, what Robertson later described as "an old dungeon carved out of the rock." Based in Washington, DC, the NCIO included federal cabinet members and national Indian leaders.<sup>35</sup> Robertson was therefore in a position to influence the outcome of the Eugene Austin matter. After contacting Nevada governor Donal "Mike" O'Callaghan and Carl Hocker, chief of the Nevada Parole and Probation Board, Robertson wrote to Dr. Emery A. Johnson, the director of the IHS, seeking his direct assistance in finding a satisfactory rehabilitation program for Eugene Austin. If Johnson could satisfy that crucial parole-related requirement, Robertson continued, he would forward it to Hocker and request a new parole hearing. "I would be willing to go before the Board on Austin's behalf," Robertson declared. "After having served 32 years on his sentence and being in the physical shape he is in, I hope something can be done."<sup>36</sup>

These efforts paid off when on May 28, 1974, the State of Nevada granted fifty-one-year-old Eugene Austin parole. In a brief interview conducted in the prison hospital ward shortly after he learned of the decision, Austin sat expressionless and spoke in a monotone voice. He said he felt "surprised" upon hearing the parole board's decision and declared that he had no hard feelings about the long years he had spent in solitary confinement, the loss of his eyesight, or the bilateral lobotomy. "It will be better," he replied to inquiries about his future. "I'll be outside."<sup>37</sup> A short while later, authorities transported Austin to Crestwood Manor, a convalescent home located in Sacramento,

California. He lived there until his death at age fifty-seven on March 24, 1980.<sup>38</sup>

The Eugene Austin story received short-lived attention following his release from Nevada State Prison in 1974. The national media, enamored by ongoing efforts of militant Indian organizations such as the American Indian Movement and the National Indian Youth Council to promote tribal sovereignty and self-determination, appeared eager to exploit this latest example of government injustice to Native peoples. Newspapers from around the country ran headlines focusing either on Austin's blindness, his years in solitary confinement, or about the 1953 lobotomy. On May 30, 1974, NBC News broadcast a three-minute television segment about Austin's inhumane treatment at the Nevada State Prison, his physical disabilities, and his imminent transfer to Crestwood Manor.<sup>39</sup> Attempts to place his life within a larger context or to understand how and why the tragedy unfolded were not reported.

Eugene Austin grew up in a time and place that held few romanticized views of American Indians. In 1942, Reno city officials endorsed an ordinance placing a 9:00 p.m. curfew on children and Indians.<sup>40</sup> The Nevada Tavern Owner's Association, meanwhile, sought passage of a new law aimed at "raising the morals" of their industry by banning the sale of liquor to minors, Indians, and other persons regarded "unfit" to drink.<sup>41</sup> Writing in the 1930s, Dewey Sampson, a Paiute graduate of the Stewart Indian School, described students returning home to "little shacks of poverty and squalor, where everybody eats, sleeps, and has their being in one room, where no pleasant surroundings encourage the imagination."<sup>42</sup> Austin's decision to drop out of school and return to the Lovelock Colony, a small community of impoverished and virtually landless Paiutes, virtually ensured him a life of manual labor, substandard housing, and few "pleasant surroundings." Unhappy and unsuccessful at school, Austin's return home did little to improve his outlook on life. Sparse opportunities, dysfunctional family relationships, and growing pressures to find work contributed to Austin's growing frustration and depression. Considered together with possible preexisting mental illness (bipolar disorder, sociopathy, antisocial personality disorder) the potential for impulsive, irrational, and violent behavior increased exponentially.



**FIGURE 4.** *In May 1974, Nevada state officials granted fifty-one-year-old Eugene Austin parole. Blind, lobotomized, and unable to walk without assistance, Austin spent thirty-three years in the maximum-security prison, over a third of them in solitary confinement. NBC News interviewed him shortly before his release. Courtesy of Vanderbilt University Television News Archive.*

Some studies have shown that, in comparison to individuals without mental health problems, those with such problems are more likely to be arrested. Once arrested, they are more likely to be detained, and once detained, are more likely to stay in jail longer.<sup>43</sup> Unfortunately, there is no evidence that Eugene Austin's mental disabilities were ever diagnosed—much less treated—prior to his murder of Velna Stoker. Mental health experts were likely not readily accessible in Lovelock, and few would have had much experience or expertise working with Indian clients even if they had been available. Sadie Austin was no doubt aware of her son's problems, but remained either oblivious to their severity or where to turn for help. By the early 1950s, after nearly ten years in prison, Austin's mental condition had deteriorated and his behavior had become so unmanageable that prison officials arranged for a bilateral lobotomy, a "treatment" option that did little to improve his condition. What makes this a particularly tragic episode is the fact that authorities suspected that Austin was mentally ill as early as 1941, but made no effort to have him evaluated professionally. Instead, the prosecutor's desire to obtain a quick conviction and a maximum sentence led the Pershing County District Court to permit a seventeen-year-old boy with a sixth-grade education and with obvious mental impairments to waive his right to an attorney and plead guilty to first-degree murder. That the accused was an American Indian and the victim was a white woman only increased the pressure for decisive action. Austin's lack of familiarity with the criminal justice system, with the role of attorneys, and with his rights as a defendant, a not uncommon predicament among Native Americans charged with breaking the law, made the prosecutor's task that much easier.

Eugene Austin's decision to give a confession without the assistance of legal counsel raises several red flags. Facing interrogation for the first time in his life and unaccustomed to conversing with veteran law enforcement officials, Austin was likely intimidated and anxious to get it over with as soon as possible. Incarcerated in a jail cell seventy miles from home and incapable of articulating responses to specific (and at times highly personal) questions posed about his family relationships, his activities in the days leading up to the murder, and what he was thinking about at each juncture must have compounded his anxiety. While there is no evidence that law enforcement officials coerced him or otherwise subjected Austin to "third degree" tactics, no interpreter was present, nor was an individual tasked to explain or define terms. When communication difficulties arose, District Attorney Sanford Bunce overcame them by "clarifying" Austin's answers, often in ways that were inaccurate and not particularly helpful. When Bunce asked Austin how Stewart Indian School officials had disciplined him for failing to report for work, for example, Austin replied, "They make you over work," likely referring to extra work details.

Bunce “clarified” the response, however, by asking, “They hold you in detention?” to which Austin replied, “Yes.”<sup>44</sup>

At other points in the interrogation, Bunce suggested motives for the shooting that Austin had not initiated, but nonetheless accepted.

- Bunce: At the time of the shooting when you thought about the fact that you might be caught where did you figure you would be placed or put?”
- Austin: Maybe in the Nevada State Prison.
- Bunce: *You desired to be put in prison should you be caught after the shooting?*
- Austin: Yes.<sup>45</sup>

In another example of a manipulative question that was damaging to Eugene Austin no matter how he answered it, Bunce queried, “Have you ever had any other ideas about killing any persons other than your brother and Mrs. Stoker?” Austin’s single-word reply “no” was probably accurate, but by failing to clarify his answer, he appeared to acknowledge that he had been thinking about killing Velna Stoker. This inadvertent admission of premeditation contradicted earlier testimony that he did not know Stoker and was not thinking about shooting her until he wandered onto the parking lot of the Brookwood Auto Court.<sup>46</sup>

The criminal justice system likewise failed Eugene Austin by neglecting to offer any rehabilitation and education during his long incarceration. The evidence, in fact, indicates that NSP officials did not even try. According to the parole board’s 1973 report, the prison’s education department had “no record of this man’s previous education. He has not been involved in academic or vocational training programs except for the training he [received] through Special Services for the Blind.” Austin likewise accrued no work experience. “The subject is blind and has been unassigned for the major portion of his time. During the entire 32 year period there has never been any work reports placed in his file.” Given Austin’s record of “assaultive attacks on guards and fellow inmates,” it is reasonable to assume that prison officials believed they could not risk placing him in a classroom or equipping him with tools. The consequence of this determination, however, was that Austin spent virtually all his time in his cell, in solitary confinement, or in the prison’s hospital ward. More importantly, by failing to offer Austin rehabilitation services and the skills necessary to earn a living on the outside, prison officials delayed his parole.<sup>47</sup>

Race and racial stereotyping also played a role in the Eugene Austin story, albeit an ambiguous one. District Attorney Sanford Bunce, for example, attributed Austin’s odd courtroom demeanor, inability to explain his actions, and apparent lack of remorse to “the natural stoic characteristic of his race.” Austin’s numerous prison altercations with guards and inmates, meanwhile, may have been in response to unkind epithets and racial slurs. Teasing and hazing from

fellow inmates, prison Warden A. E. Bernard later recalled, led to a violent confrontation during which Austin threw two inmates to the ground “like marbles.” IHS officials Eugene Wilson and Perry Sundust believed that the Nevada State Parole Board’s recurring rejection of Eugene Austin’s request for early release evinced “prejudicial overtones to the point of racism.” Criminal justice officials denied these accusations and a 1974 study of the parole board’s record indicated, “No large disparity exists in the average time served prior to parole for whites, blacks, and Native Americans.” That said, Native American convicts were the least likely racial subgroup to gain release. Of the parole hearings for white inmates, the parole board granted 40 percent (180 of 451); the percentage for black inmates was 43 percent (55 of 127); and for Mexican Americans, 46 percent (12 of 26). The rate for Native Americans, however, was only 30 percent (7 of 21). Parole officials claimed that the board took “special note of individual inadequacies such as poor communication skills” and attempted to provide support for prisoners with these “inadequacies” during parole hearings. This was not always the case. At Austin’s July 1971 parole hearing, one board member sat in a corner of the room and admitted that she “had some difficulty understanding him for the first minute or two.” In 1969, Austin appeared before the parole board in a wheel chair “and virtually unable to speak.” There is no evidence that board members made any special accommodation for him at the time.<sup>48</sup>

Although twenty-first century Native American incarceration rates remain disproportionately high (in 2000, one of every two hundred American Indian adults was convicted of a felony crime, compared to one of every three hundred white adults), conditions inside the nation’s many prisons have undergone significant change.<sup>49</sup> Counseling and medicinal regimens have replaced lobotomies as the treatments of choice for inmates with mental disorders, and prison officials are required to respect the cultural and religious freedoms of their inmates. Nevada prisons now permit inmates to observe sweat lodge rituals and Native American Church services (without peyote), ceremonies in which sage, cedar, and herbs are burned, and Indian prisoners may possess eagle feathers and medicine bags. Those Nevada Indian inmates who participate in traditional Indian-oriented activities, Elizabeth S. Grobsmith has observed, demonstrate a more positive attitude than those who do not (or cannot) participate.<sup>50</sup> It is difficult to speculate how such activities may have ameliorated Eugene Austin’s experiences inside the Nevada State Prison. As we have seen, Austin’s life prior to his murder of Velna Stoker reflected the experiences of many Native Americans residing in the rural Southwest during the 1930s and 1940s. Poverty, unemployment, dysfunctional families, inadequate health-care, substandard housing, and disproportionately high crime and incarceration rates were symptoms of an “Indian problem” stretching back to the nation’s

founding. As Lewis Meriam noted in his famous 1928 report, *The Problem of Indian Administration*, the interrelationships that existed between these various maladies made differentiating between cause and effect impossible.<sup>51</sup> In the case of Eugene Austin, one must include mental illness in the mix, a condition exacerbated by the multitude of other pressures operating on his psyche. The failure of school officials, employers, family members, and the criminal justice system to recognize and treat Austin's disability and instead ignore it resulted in the tragic death of Velna Stoker in May 1941 and in the subsequent tragedy that unfolded over the course of the next three decades within the walls of the Nevada State Prison. In his 1964 book *The Pursuit of Justice*, Robert F. Kennedy remarked, "every society gets the kind of criminal it deserves."<sup>52</sup> This observation seems especially applicable to the case of Eugene Austin.

## NOTES

1. Ronet Bachman, "The Social Causes of American Indian Homicide as Revealed by the Life Experiences of Thirty Offenders," *American Indian Quarterly* 15 (Fall 1991): 469–93; Philip A. May, "Contemporary Crime and the American Indian: A Survey and Analysis of the Literature," *Plains Anthropologist* 27 (August 1982): 228–29.

2. Christina Lanier, "Structure, Culture, and Lethality: An Integrated Model Approach to American Indian Suicide and Homicide," *Homicide Studies* 14 (2010): 74–75.

3. Lisa M. Poupart, "Crime and Justice in American Indian Communities," *Social Justice* 29 (2002): 144–45.

4. Arthur S. Riffenburgh, "Cultural Influences and Crime Among Indian-Americans of the Southwest," *Federal Probation* 23 (1964): 63–66, quoted in May, "Contemporary Crime," 228.

5. May, "Contemporary Crime," 228–33.

6. John Dollard, Leonard Doob, Neal E. Miller, O. H. Mowrer, and Robert R. Sears, *Frustration and Aggression* (New Haven: Yale University Press, 1939), 1, 10, emphasis added; Bachman, "The Social Causes of American Indian Homicide," 487–89.

7. May, "Contemporary Crime and the American Indian," 232–34; Bruce A. Chadwick, Joseph Strauss, Howard M. Bahr and Lowell K. Halverson, "Confrontation with the Law: The Case of the American Indian in Seattle," *Phylon* 37 (1976): 163–64.

8. Confession of Eugene Austin, May 26, 1941, Sheriff's Office, Lovelock, NV; Confession of Eugene Austin, June 19, 1941, Pershing County Law Library, County Courthouse, Lovelock, NV. Documents are located in the Pershing County Courthouse, Lovelock, NV. For information about Stewart Indian School, see the school's website at <http://www.stewartindianschool.com/stewart-history.html>.

9. Confession of Eugene Austin, May 26, 1941; "Mrs. Stoker Dies from Bullet Wound," *Reno Evening Gazette* (May 27, 1941), 10.

10. Confession of Eugene Austin, May 26, 1941; Confession of Eugene Austin, June 19, 1941.

11. Confession of Eugene Austin, May 26, 1941. Photos of Eugene Austin reenacting the murder of Velna Stoker, May 26, 1941, Pershing County Courthouse, Lovelock, Nevada; *Reno Evening Gazette*, "Mrs. Stoker Dies."

12. Confession of Eugene Austin, May 26, 1941.

13. Ibid.

14. Jennifer L. Skeem, John Monahan, and Edward P. Mulvey, "Psychopathy, Treatment Involvement, and Subsequent Violence among Civil Psychiatric Patients," *Law and Human Behavior* 26 (December 2002): 577–78; Stephan P. Spitzer and John D. Spevacek, "Cognitive Organization of Sociopaths and 'Normal' Criminal Offenders," *Journal of Research in Crime and Delinquency* 3 (1966): 57–58.

15. According to the California Tribal Police Chiefs Association website, "Federally Deputized Police Officers, BIA Special Deputy Officers" are "a hybrid tribal/federal officer, paid by the individual tribal government, but deputized by the US Bureau of Indian Affairs as Federal Law Enforcement Officers and having the same authority as BIA Police Officers. These officers are federally empowered to enforce federal laws on Indian Reservations and off-reservation if a nexus to the reservation exists. These officers also enforce tribal law and ordinance violations by Indians against Indians in Indian country, including arrest of tribal members and Indians for violations of tribal criminal codes." See <http://catpca.org/sitebuildercontent/sitebuilderfiles/ICLESAPL280.pdf>.

16. Criminal Complaint against Eugene Austin, File No. 109, June 16, 1941; Preliminary arraignment of Eugene Austin, File No. 109, June 20, 1941; Formal arraignment of Eugene Austin in the 6<sup>th</sup> Judicial District Court, File No. 109, June 23, 1941. Preceding documents held in the Pershing County Courthouse, Lovelock, Nevada. "Escape Try By Slayer is Revealed," *Nevada State Journal* (July 11, 1941), 12.

17. Sentence Hearing of Eugene Austin, File 109, July 11, 1941, Pershing County Courthouse, Lovelock, Nevada; Parole Board and Referral Report for Eugene Austin, July 1973, Box 10, Records of Temporary Committees, Commissions, and Boards, Records of the National Council on Indian Opportunity, 1968–1974, Record Group 220, National Archives Building at College Park, MD (hereafter cited as NCIO Records).

18. Chadwick, et al., "Confrontation with the Law," 170.

19. Confession of Eugene Austin, June 19, 1941; emphasis added.

20. The Cornell University Law School website defines voluntary manslaughter as killing another person in the heat of passion and in response to adequate provocation, <http://www.law.cornell.edu/wex/manslaughter>); Nolo's *Plain-English Law Dictionary* defines it as an act of murder that is reduced to manslaughter due to extenuating circumstances, such as when the defendant acts in "the heat of passion" or is subject to diminished capacity. See <http://www.nolo.com/dictionary/manslaughter-term.html>.

21. For a discussion of the M'Naughten Rule, see <http://lawdigest.uslegal.com/criminal-laws/insanity-defense/7204>.

22. Edwin Hall and Albert Simkus, "Inequality in the Types of Sentences Received by Native Americans," *Criminology* 13 (1975): 216–17.

23. For a recent pictorial history of the prison see Jennifer E. Riddle, Sena M. Loyd, Stacy L. Branham, and Curt Thomas, *Nevada State Prison* (Charleston, SC: Arcadia Publishing, 2012).

24. According to a 1974 study of Nevada State Prison, 2.87 percent (24 of 803) prisoners incarcerated at the NSP were American Indians. See *In the Gray Shadow: Parole in Nevada, A Report Prepared by the Nevada Advisory Committee to the U.S. Commission on Civil Rights*, 40, <http://www.law.umaryland.edu/marshall/usccr/documents/cr12n41.pdf>.

25. "Dangerous Convict Caught at Dayton," *Nevada State Journal* (May 15, 1948), 14.

26. *Ibid.*

27. "Lobotomy on Prisoner Raises National Furor," *Capital Times* (June 4, 1974), 4; "Warden Defends '53 lobotomy on 'Violent' Indian," *Long Beach Press Telegram* (June 4, 1974), 18.

28. *Ibid.*; "Psychosurgery Returns," *Time* (April 3, 1972), 68; Josh Torgovnick, Nitin K. Sethi, Edward Arsura, and Prahlad K. Sethi, "Neurology Pictorial Scars: Scars of Psychosurgery: Frontal Lobotomy," *The Internet Journal of Neurology* 12, no. 2, <http://ispub.com/IJN/12/2/12549>.



29. Parole Board and Referral Report for Eugene Austin, NCIO Records; "Warden Defends '53 lobotomy on 'Violent' Indian"; "Blind Man to Hospital after 33 Prison Years," *Corona Daily Independent* (May 29, 1974), 4; Letter to Emery A. Johnson, Director, Indian Health Services, from Bob Robertson, Executive Director, NCIO, August 13, 1973, NCIO Records.
30. Memorandum from Kris Winters, Senior Rehabilitation Counselor, Nevada State Department of Health, Welfare, and Rehabilitation, June 24, 1971; Winters to A. A. Campos, Chief, Department of Probation and Parole, July 9, 1971; Letter to Emery A. Johnson, Director, Indian Health Services, from Bob Robertson, NCIO Records.
31. Kris Winters to A. A. Campos, Chief, Department of Probation and Parole, July 9, 1971; Case file of Kris Winters, Senior Rehabilitation Counselor, November 8, 1972; Memorandum for Roger Trounday from Kris Winters, November 17, 1972, NCIO Records.
32. Eugene B. Wilson and Perry Sundust to Kris Winters, November 22, 1972, NCIO Records.
33. Case File of Kris Winters, July 11, 1973, NCIO Records.
34. Memorandum to Dr. Thomas Snoke, Reno Field Office of the Public Health Service-Indian Health Service, from Eugene B. Wilson and Perry Sundust, July 27, 1973, NCIO Records; emphasis in original.
35. This study of Eugene Austin was inspired during a research trip to the National Archives in College Park, Maryland. While researching the National Council on Indian Opportunity, I came across a file about Eugene Austin and the Council's efforts to help him obtain a pardon.
36. Letter to Emery A. Johnson, Director, Indian Health Services, from Bob Robertson, Executive Director, NCIO, August 13, 1973.
37. "Blind Killer to be Free after 33 Years in Jail," *Long Beach Press Telegram* (April 26, 1974), B5.
38. "California, Death Index, 1940–1997," Church of Jesus Christ of Latter-Day Saints *FamilySearch* index, <https://familysearch.org/pal:/MM9.1.1/VGB4-4XT>: Eugene Austin, 1980, citing California Department of Health Services, Vital Statistics Section, Sacramento, California.
39. NBC News segment aired May 30, 1974, No. 34088, Vanderbilt TV News Archive, Nashville, TN.
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41. "Tavern Owners Seek New Law," *Nevada State Journal* (August 29, 1939), 10.
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43. Allison D. Redlich, Alicia Summers, and Steven Hoover, "Self-Reported False Confessions and False Guilty Pleas among Offenders with Mental Illness," *Law and Human Behavior* 34 (2010): 81–82.
44. Confession of Eugene Austin, June 19, 1941.
45. Confession of Eugene Austin, May 26, 1941; emphasis added.
46. Ibid.
47. Parole Board and Referral Report for Eugene Austin, NCIO Records.
48. *In the Gray Shadow: Parole in Nevada*, 41–46; Case file of Kris Winters, July 16, 1971, NCIO.
49. Jan Chaiken, *American Indians and Crime* (Washington, DC: Bureau of Justice Statistics, 1999), <http://www.bjs.gov/content/pub/ascii/aic.txt>.
50. Elizabeth S. Grobsmith, *Indians in Prison: Incarcerated Native Americans in Nebraska* (Lincoln: University of Nebraska Press, 1994), 156, 164.
51. Lewis Meriam, *The Problem of Indian Administration: Report of a Survey made at the Request of Honorable Hubert Work, Secretary of the Interior, and Submitted to Him, February 21, 1928* (Baltimore, MD: Johns Hopkins Press, 1928), 3.
52. Robert F. Kennedy, *The Pursuit of Justice*, ed. Theodore J. Lowi (New York: Harper & Row, 1964), 47.